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**SUBSTITUTE SENATE BILL 5353**

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**State of Washington**

**60th Legislature**

**2007 Regular Session**

**By** Senate Committee on Judiciary (originally sponsored by Senators Kline, McCaslin, Swecker and Pridemore)

READ FIRST TIME 02/27/07.

1 AN ACT Relating to courts of limited jurisdiction; amending RCW  
2 3.50.003, 3.50.005, 3.50.020, 3.50.805, 39.34.180, 10.14.150, 3.50.040,  
3 and 3.50.050; adding new sections to chapter 3.50 RCW; providing an  
4 effective date; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 3.50.003 and 1984 c 258 s 125 are each amended to read  
7 as follows:

8 (1) "City" means an incorporated city or town.

9 (2) "Contracting city" means any city that contracts with a hosting  
10 jurisdiction for the delivery of judicial services.

11 (3) "Mayor((~~r~~))" ((~~as used in this chapter,~~)) means the mayor, city  
12 manager, or other chief administrative officer of the city.

13 (4) "Hosting jurisdiction" means a county or city designated in an  
14 interlocal agreement as receiving compensation for providing judicial  
15 services to a contracting city.

16 **Sec. 2.** RCW 3.50.005 and 1984 c 258 s 101 are each amended to read  
17 as follows:

18 The legislature finds that ~~((there is a multitude of statutes~~

1 ~~governing the municipal courts of the state. This situation is~~  
2 ~~confusing and misleading to attorneys, judges, court personnel, and~~  
3 ~~others who work with the municipal courts. The legislature therefore~~  
4 ~~finds that a reorganization of the municipal courts of the state would~~  
5 ~~allow those courts to operate in a more effective and efficient~~  
6 ~~manner)) continuing to permit cities to contract with counties or other~~  
7 ~~cities for judicial services will allow cities to provide more cost-~~  
8 ~~effective services and encourage the creation of regional courts of~~  
9 ~~limited jurisdiction that provide the full range of judicial functions~~  
10 ~~and that are open and accessible to the citizens of the state of~~  
11 ~~Washington.~~ This chapter provides a court structure which may be used  
12 by cities and towns with a population of four hundred thousand or less  
13 which choose to operate under this chapter.

14 NEW SECTION. **Sec. 3.** A new section is added to chapter 3.50 RCW  
15 to read as follows:

16 A city may meet the requirements of RCW 39.34.180 by entering into  
17 an interlocal agreement with the county in which the city is located or  
18 with one or more cities. The host jurisdiction in any such agreement  
19 must be located within reasonable proximity to any contracting city or  
20 cities. For purposes of this section, "reasonable proximity" shall be  
21 determined after consideration of the factors set forth in RCW  
22 39.34.010. The interlocal agreement shall provide that a judge of the  
23 hosting jurisdiction sit as the municipal court judge for the  
24 contracting city or cities and hear those cases specified in RCW  
25 39.34.180.

26 **Sec. 4.** RCW 3.50.020 and 2005 c 282 s 14 are each amended to read  
27 as follows:

28 The municipal court shall have exclusive original jurisdiction over  
29 traffic infractions arising under city ordinances and exclusive  
30 original criminal jurisdiction of all violations of city ordinances  
31 duly adopted by the city (~~in which the municipal court is located~~)  
32 and shall have original jurisdiction of all other actions brought to  
33 enforce or recover license penalties or forfeitures declared or given  
34 by such ordinances or by state statutes. A hosting jurisdiction shall  
35 have exclusive original criminal and other jurisdiction as described in  
36 this section for all matters filed by a contracting city. The

1 municipal court shall also have the jurisdiction as conferred by  
2 statute. The municipal court is empowered to forfeit cash bail or bail  
3 bonds and issue execution thereon; and in general to hear and determine  
4 all causes, civil or criminal, including traffic infractions, arising  
5 under such ordinances and to pronounce judgment in accordance  
6 therewith. A municipal court participating in the program established  
7 by the administrative office of the courts pursuant to RCW 2.56.160  
8 shall have jurisdiction to take recognizance, approve bail, and arraign  
9 defendants held within its jurisdiction on warrants issued by any court  
10 of limited jurisdiction participating in the program.

11 **Sec. 5.** RCW 3.50.805 and 2005 c 433 s 35 are each amended to read  
12 as follows:

13 (1) A ((municipality)) city operating a municipal court under this  
14 chapter shall not terminate that court or terminate an interlocal  
15 agreement entered into under section 3 of this act unless the  
16 ((municipality)) city has reached an agreement with the appropriate  
17 county or another ((municipality)) city under chapter 39.34 RCW under  
18 which the county or ((municipality)) city is to be paid a reasonable  
19 amount for costs associated with prosecution, adjudication, and  
20 sentencing in criminal cases, or traffic infractions that are filed in  
21 district or municipal court as a result of the termination. The  
22 agreement shall provide for periodic review and renewal of the terms of  
23 the agreement. If the ((municipality)) city and the county or  
24 ((municipality)) city are unable to agree on the terms for renewal of  
25 the agreement, they shall be deemed to have entered into an agreement  
26 to submit the issue to arbitration under chapter 7.04A RCW. Pending  
27 conclusion of the arbitration proceeding, the terms of the agreement  
28 shall remain in effect. The ((municipality)) city and the county or  
29 ((municipality)) city have the same rights and are subject to the same  
30 duties as other parties who have agreed to submit to arbitration under  
31 chapter 7.04A RCW. A ((municipality)) city that has entered into  
32 agreements with other ((municipalities)) cities that have terminated  
33 their municipal courts may not thereafter terminate its court unless  
34 each ((municipality)) city has reached an agreement with the  
35 appropriate county or city in accordance with this section.

36 (2) A ((municipality)) city operating a municipal court under this  
37 chapter may not repeal in its entirety that portion of its municipal

1 code defining crimes while retaining the court's authority to hear and  
2 determine traffic infractions under chapter 46.63 RCW unless the  
3 ((municipality)) city has reached an agreement with the county under  
4 chapter 39.34 RCW under which the county is to be paid a reasonable  
5 amount for costs associated with prosecution, adjudication, and  
6 sentencing in criminal cases, or traffic infractions that are filed in  
7 district court as a result of the repeal. The agreement shall provide  
8 for periodic review and renewal of the terms of the agreement. If the  
9 ((municipality)) city and the county are unable to agree on the terms  
10 for renewal of the agreement, they shall be deemed to have entered into  
11 an agreement to submit the issue to arbitration under chapter 7.04A  
12 RCW. Pending conclusion of the arbitration proceeding, the terms of  
13 the agreement shall remain in effect. The ((municipality)) city and  
14 the county have the same rights and are subject to the same duties as  
15 other parties who have agreed to submit to arbitration under chapter  
16 7.04A RCW.

17 (3) A ((municipality)) city operating a municipal court under this  
18 chapter may not repeal a provision of its municipal code which defines  
19 a crime equivalent to an offense listed in RCW 46.63.020 unless the  
20 ((municipality)) city has reached an agreement with the county under  
21 chapter 39.34 RCW under which the county is to be paid a reasonable  
22 amount for costs associated with prosecution, adjudication, and  
23 sentencing in criminal cases, or traffic infractions that are filed in  
24 district court as a result of the repeal. The agreement shall provide  
25 for periodic review and renewal of the terms of the agreement. If the  
26 ((municipality)) city and the county are unable to agree on the terms  
27 for renewal of the agreement, they shall be deemed to have entered into  
28 an agreement to submit the issue to arbitration under chapter 7.04A  
29 RCW. Pending conclusion of the arbitration proceeding, the terms of  
30 the agreement shall remain in effect. The ((municipality)) city and  
31 the county have the same rights and are subject to the same duties as  
32 other parties who have agreed to submit to arbitration under chapter  
33 7.04A RCW.

34 **Sec. 6.** RCW 39.34.180 and 2001 c 68 s 4 are each amended to read  
35 as follows:

36 (1) Each county, city, and town is responsible for the prosecution,  
37 adjudication, sentencing, and incarceration of misdemeanor and gross

1 misdemeanor offenses and traffic infractions committed by adults in  
2 their respective jurisdictions, and referred from their respective law  
3 enforcement agencies, whether filed under state law or city ordinance,  
4 and must carry out these responsibilities through the use of their own  
5 courts, staff, and facilities, or by entering into contracts or  
6 interlocal agreements under this chapter to provide these services.  
7 Nothing in this section is intended to alter the statutory  
8 responsibilities of each county for the prosecution, adjudication,  
9 sentencing, and incarceration for not more than one year of felony  
10 offenders, nor shall this section apply to any offense initially filed  
11 by the prosecuting attorney as a felony offense or an attempt to commit  
12 a felony offense.

13 (2) The following principles must be followed in negotiating  
14 interlocal agreements or contracts: Cities and counties must consider  
15 (a) anticipated costs of services; and (b) anticipated and potential  
16 revenues to fund the services, including fines and fees, criminal  
17 justice funding, and state-authorized sales tax funding levied for  
18 criminal justice purposes.

19 (3) If an agreement as to the levels of compensation within an  
20 interlocal agreement or contract for gross misdemeanor and misdemeanor  
21 services cannot be reached between (~~a city and county~~) the parties,  
22 then either party may invoke binding arbitration on the compensation  
23 issued by notice to the other party. In the case of establishing  
24 initial compensation, the notice shall request arbitration within  
25 thirty days. In the case of nonrenewal of an existing contract or  
26 interlocal agreement, the notice must be given one hundred twenty days  
27 prior to the expiration of the existing contract or agreement and the  
28 existing contract or agreement remains in effect until a new agreement  
29 is reached or until an arbitration award on the matter of fees is made.  
30 The (~~city and county~~) parties each select one arbitrator, and the  
31 initial two arbitrators pick a third arbitrator.

32 (4) A city or county that wishes to terminate an agreement for the  
33 provision of court services must provide written notice of the intent  
34 to terminate the agreement in accordance with RCW 3.50.810 and  
35 35.20.010.

36 (5) For cities or towns that have not adopted, in whole or in part,  
37 criminal code or ordinance provisions related to misdemeanor and gross

1 misdemeanor crimes as defined by state law, this section shall have no  
2 application until July 1, 1998.

3 **Sec. 7.** RCW 10.14.150 and 2005 c 196 s 1 are each amended to read  
4 as follows:

5 (1) The district courts shall have jurisdiction and cognizance of  
6 any civil actions and proceedings brought under this chapter, except  
7 the district court shall transfer such actions and proceedings to the  
8 superior court when it is shown that the respondent to the petition is  
9 under eighteen years of age.

10 (2) Municipal courts (~~((may exercise))~~) shall have jurisdiction and  
11 cognizance of any civil actions and proceedings brought under this  
12 chapter (~~((by adoption of local court rule))~~), except the municipal court  
13 shall transfer such actions and proceedings to the superior court when  
14 it is shown that the respondent to the petition is under eighteen years  
15 of age.

16 (3) Superior courts shall have concurrent jurisdiction to receive  
17 transfer of antiharassment petitions in cases where a district or  
18 municipal court judge makes findings of fact and conclusions of law  
19 showing that meritorious reasons exist for the transfer. The municipal  
20 and district courts shall have jurisdiction and cognizance of any  
21 criminal actions brought under RCW 10.14.120 and 10.14.170.

22 NEW SECTION. **Sec. 8.** A new section is added to chapter 3.50 RCW  
23 to read as follows:

24 (1) The legislature finds that having a judiciary free from undue  
25 political pressures is the cornerstone of our system of justice.  
26 However, differences over the method to best ensure judicial  
27 independence have also been a part of our system since its inception.  
28 Part-time municipal courts serve a vital role in many communities,  
29 improving access to justice for residents. Therefore, the legislature  
30 finds that having a broad group of judges, practitioners, and laypeople  
31 serve as a nominating commission to inform the appointing authority  
32 will improve the selection process.

33 (2) Cities that appoint part-time judges according to this chapter  
34 shall by ordinance create and convene a nominating commission to  
35 consider applicants for part-time municipal court judge. Recruitment  
36 for the position shall be conducted in a manner consistent with the

1 practices of the jurisdiction, while making every effort to advertise  
2 as widely as possible to attract the broadest possible selection of  
3 applicants. Cities choosing to appoint the elected district court  
4 judge are not required to convene a nominating commission.

5 (3) The commission shall include:

6 (a) One judge practicing in a court of limited jurisdiction,  
7 serving on the bench at the time the commission is convened, appointed  
8 by the district and municipal court judges association;

9 (b) Two citizens of the jurisdiction served by the court, appointed  
10 by the mayor;

11 (c) One private criminal defense attorney appointed by the  
12 Washington association of criminal defense attorneys;

13 (d) One prosecuting attorney, appointed by the Washington  
14 association of prosecuting attorneys;

15 (e) The municipal court judge currently serving in the jurisdiction  
16 if there is an incumbent who is not a candidate for the position;

17 (f) The city attorney from the jurisdiction in which the court is  
18 located;

19 (g) A court administrator, appointed by the district and municipal  
20 court management association;

21 (h) One member of the executive branch of the city, appointed by  
22 the mayor; and

23 (i) A representative of the human resources department, or  
24 equivalent, from the jurisdiction in which the court is located.

25 If the mayor serves in any of the positions listed in this  
26 subsection, he or she is prohibited from participating in the  
27 commission.

28 (4) The commission shall be staffed by the jurisdiction in which  
29 the court is located, unless specifically provided for otherwise.  
30 Whenever practicable, members should be selected from areas within  
31 reasonable proximity to minimize costs. For purposes of this section,  
32 "reasonable proximity" shall be determined after consideration of the  
33 factors set forth in RCW 39.34.010. All costs related to attending  
34 commission meetings shall be borne by the individuals or their  
35 appointing organizations.

36 (5) Commissioners shall:

37 (a) Select a chair from amongst its members;

38 (b) Convene initially at the request of the mayor;

1 (c) Comply with a timeframe, when practicable and reasonable, set  
2 by the mayor for making their recommendations;

3 (d) Consider all applicants deemed to have met the minimum  
4 qualifications by the human resources department, or equivalent, of the  
5 jurisdiction in which the court is located. The commission may limit  
6 the applicants interviewed, if necessary;

7 (e) Evaluate applicants for their suitability for the bench,  
8 including the applicant's legal training, professional skills,  
9 interpersonal skills, writing ability, knowledge of and experience with  
10 alternative dispute resolution, and ability to manage a courtroom  
11 environment, the applicant's reputation for fairness, integrity, and  
12 preparedness, moral courage, open-mindedness, and objectivity. The  
13 evaluation may include, but is not limited to, materials submitted by  
14 the candidate, information from applicants' financial records, law  
15 enforcement agencies, and disciplinary bodies;

16 (f) After collecting information to evaluate each applicant,  
17 recommend to the appointing authority a ranked list of applicants from  
18 which he or she must appoint, subject to confirmation by the  
19 legislative authority according to RCW 3.50.040; and

20 (g) Disclose potential conflicts of interest and personal  
21 connections with the applicants.

22 (6) Any municipal judge appointed under this section shall serve an  
23 initial two-year term of office. Thereafter, the judge is eligible to  
24 serve an additional consecutive four-year term, but must first  
25 participate in an uncontested retention election, which will be held  
26 and administered in the same manner as elections for other city  
27 officials, except to the extent that such elections differ from the  
28 following procedure. In the retention election, the judge must garner  
29 more than fifty percent of the vote which affirmatively answers the  
30 following question: "Shall [name of judge] be retained as a judge of  
31 [name of city or town] for four years?" To serve any additional  
32 consecutive four-year term thereafter, the judge must submit to a  
33 similar election in the manner prescribed above.

34 (7) Judges who are holding an office subject to this section on the  
35 effective date of this section shall serve for the remainder of their  
36 unexpired terms, and until their successors are appointed and qualify.

1       **Sec. 9.** RCW 3.50.040 and 2002 c 136 s 2 are each amended to read  
2 as follows:

3       Within thirty days after the effective date of the ordinance  
4 creating the municipal court, the mayor of each city or town shall  
5 appoint a municipal judge or judges of the municipal court for a term  
6 of four years, except that if a municipal judge is serving less than a  
7 full-time equivalent position as provided under RCW 3.50.055, section  
8 8(6) of this act shall apply. The terms of judges serving on July 1,  
9 1984, and municipal judges who are appointed to terms commencing before  
10 January 1, 1986, shall expire January 1, 1986. The terms of their  
11 successors shall commence on January 1, 1986, and on January 1 of each  
12 fourth year thereafter, pursuant to appointment or election as provided  
13 in this chapter. Appointments shall be made on or before December 1 of  
14 the year next preceding the year in which the terms commence.

15       The legislative authority of a city or town that has the general  
16 power of confirmation over mayoral appointments shall have the power to  
17 confirm the appointment of a municipal judge.

18       A person appointed as a full-time or part-time municipal judge  
19 shall be a citizen of the United States of America and of the state of  
20 Washington; and an attorney admitted to practice law before the courts  
21 of record of the state of Washington: PROVIDED, That in a municipality  
22 having a population less than five thousand persons, a person who has  
23 taken and passed by January 1, 2003, the qualifying examination for a  
24 lay candidate for judicial officer as provided by rule of the supreme  
25 court may be the judge. Any city or town shall have authority to  
26 appoint a district judge as its municipal judge when the municipal  
27 judge is not required to serve full time. In the event of the  
28 appointment of a district judge, the city or town shall pay a pro rata  
29 share of the salary.

30       **Sec. 10.** RCW 3.50.050 and 1984 c 258 s 107 are each amended to  
31 read as follows:

32       The legislative authority of the city or town may, by ordinance,  
33 provide that the position of municipal judge within the city or town  
34 shall be an elective position. The ordinance shall provide for the  
35 qualifications of the municipal judge which shall be the same as the  
36 qualifications necessary for the appointment thereof; and further,  
37 shall provide that the municipal judge shall be elected in the same

1 manner as other elective city officials are elected to office, and that  
2 the term of the municipal judge shall be for a term of four years  
3 commencing on January 1, 1986, and every four years thereafter.  
4 However, if a municipal judge is serving less than a full-time  
5 equivalent position as provided under RCW 3.50.055, section 8(6) of  
6 this act shall apply.

7 NEW SECTION. **Sec. 11.** This act is necessary for the immediate  
8 preservation of the public peace, health, or safety, or support of the  
9 state government and its existing public institutions, and takes effect  
10 July 1, 2007.

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